

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**STEPHANIE G. RAHM**  
Claimant

VS.

**FOULSTON & SIEFKIN**  
Respondent

AND

**FEDERAL INSURANCE COMPANY  
BUSINESS INSURANCE COMPANY  
HARTFORD ACCIDENT AND INDEMNITY**  
Insurance Carriers

[illegible]

Docket No. 210,314

## ORDER

Respondent and its insurance carrier, Business Insurance Company (BICO), appeal from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on August 31, 1999.

## ISSUES

On appeal, respondent and BICO contend the ALJ erred in finding claimant suffered injury to her right elbow by accident arising out of and in the course of her employment during the period that BICO provided insurance coverage.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes the finding that claimant has a compensable injury to her elbow should be affirmed. The conclusion that the date of accident was during the period of coverage by BICO is not a jurisdictional issue and is not subject to review at this stage of the proceedings.

Claimant contends she has suffered right elbow problems since an injury during a company-sponsored volleyball game in 1993. The medical records support the conclusion that the elbow was injured at that time, and the compensability of that injury is not made an issue. The problematic issue is the appropriate date of accident for claimant's current

complaints. BICO provided coverage from April 1, 1995, through April 1, 1998. The ALJ found the date of accident was within this period and BICO disputes this finding. But as the parties other than BICO have pointed out, the ALJ's finding on date of accident is not, by itself, an appealable issue. K.S.A. 1994 Supp. 44-551 and K.S.A. 1994 Supp. 44-534a. *Rogers v. Smith Construction Co.*, WCAB Docket No. 196,798 (April 1999). The appeal of the finding on the date of accident is, therefore, dismissed.

**WHEREFORE**, the Appeals Board finds and concludes the Order entered by Administrative Law Judge John D. Clark on August 31, 1999, should be affirmed in the finding of a compensable injury to the right elbow, and the appeal from the finding as to the date of accident should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 1999.

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BOARD MEMBER

c: Peter C. Hagan, Wichita, KS  
Vincent A. Burnett, Wichita, KS  
Ronald J. Laskowski, Topeka, KS  
R. Todd King, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director